

EXHIBIT K

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
TWENTY-SECOND JUDICIAL CIRCUIT
STATE OF MISSOURI**

ARQ-1501 ST. LOUIS, LLC, and NEIL FREEMAN)	
)	
Plaintiffs,)	Cause No.:
)	
v.)	Division
)	
DFQ MANAGEMENT LLC,)	
LAST HOTEL MASTER TENANT LLC,)	
1501 WASHINGTON ST. LOUIS, LLC,)	
and LAST HOTEL F&B LLC,)	
)	
Defendants.)	

PETITION FOR APPOINTMENT OF RECEIVER

Plaintiffs ARQ-1501 St. Louis, LLC and Neil Freeman, through their counsel, and pursuant to Mo. Rev. Stat. §515.500, *et seq.* states as follows:

INTRODUCTION

Defendant DFQ Management LLC manages, and Defendants 1501 Washington St. Louis, LLC, Last Hotel Master Tenant LLC and Last Hotel F&B LLC all own, the assets associated with, the hotel operations located at 1501 Washington Avenue, St. Louis Missouri, 63103, upon which exists a hotel commonly known as "The Last Hotel," which hotel contains approximately one hundred forty-two (142) guest rooms (collectively, the "**Hotel**").

Plaintiff Neil Freeman ("**Freeman**") and non-party Michael Qualizza ("**Qualizza**") are the owners of the entities that own and control the Defendants and the Hotel. DFQ Management LLC is the manager of the Last Hotel Master Tenant LLC, the operating entity of the Hotel, and DFQ's operating agreement requires both Freeman and Qualizza to unanimously agree on decisions. Qualizza will not agree to anything, much less the running of the Hotel. While Qualizza, through

a wholly owned entity, TeamQ STL LLC ("**TeamQ**"), usurped the management of the Hotel in the spring of 2021, Qualizza and TeamQ recently sent notice that they intend to quit the role of manager, effective September 26, 2022, which will cause the Hotel operations to shutter.

Further, even though the Hotel has been operating, the Hotel has no legal authority to act. Unfortunately, the Last Hotel Master Tenant LLC is also the subject of an arbitration proceeding initiated by Hyatt Franchising, LLC ("**Hyatt**") resulting from Qualizza's unilateral, *ultra vires* actions. In addition, the Hotel is being sued by US Bank N.A., its main lender. These cases, and Qualizza's obstinacy are causing litigation costs, and risks to the Hotel, to soar. Most recently, Qualizza has refused to engage in negotiations to sell the Hotel or to agree to appointment of a management firm to replace TeamQ after September 26, 2022.

In short, the Hotel cannot properly operate or make decisions such that it is in imminent risk of being shut down. Absent appointment of a general receiver over all of the Hotel assets, the value of the Hotel business and assets are subject to waste and dissipation.

PARTIES

1. Plaintiff ARQ-1501 St. Louis, LLC ("**ARQ**"), is a Delaware limited liability company with its principal place of business located in Chicago, Illinois.
2. Plaintiff Neil Freeman is a Florida resident.
3. Defendant DFQ Management LLC ("**DFQ**"), is a Delaware limited liability company with a principal place of business located in St. Louis, Missouri.
4. Defendant Last Hotel Master Tenant LLC ("**Last Hotel**"), is a Missouri limited liability company with its principal place of business located at 1501 Washington Avenue, in St. Louis Missouri.

5. Defendant 1501 Washington St. Louis, LLC ("**1501 Washington**"), is Delaware liability company with a principal place of business located in St. Louis, Missouri, and which owns real property in this State.

6. Defendant Last Hotel F&B LLC ("**F&B**") is Delaware limited liability company with a principal place of business located in St. Louis, Missouri.

OWNERSHIP AND CONTROL

7. ARQ is wholly owned by Neil Freeman.

8. DFQ is owned by, among others, ARQ and an entity known as RMZ-1501 St. Louis, LLC ("**RMZ**"), which is owned by Qualizza. Freeman and Qualizza are joint managers of DFQ.

9. Last Hotel is owned by DFQ (1%) and non-party U.S. Bancorp Community Development Corporation (99%). DFQ is the sole manager of Last Hotel.

10. 1501 Washington is owned by, among others, ARQ and RMZ. 1501 Washington owns the real property commonly known as 1501 Washington Ave., St. Louis, Missouri, on which the Hotel operates.

11. F&B is owned by, among others, Freeman and Qualizza. F&B operates the food and beverage side of the Hotel.

VENUE AND JURISDICTION

12. Venue is proper in this Court pursuant to Mo. Rev. Stat. §508.010.

13. Jurisdiction is proper in this Court because all of the parties own, operate or control the Hotel assets and operations, which Hotel operates in St. Louis Missouri.

COUNT I – APPOINTMENT OF RECEIVER

14. ARQ and Freeman incorporate by reference paragraphs 1 through 13 as though fully set forth herein.

I. This Court Has Authority to Appoint a Receiver.

15. Pursuant to the Missouri Commercial Receivership Act (the “**Act**”) and Missouri Rule of Civil Procedure 68.02, this Court has the power to appoint a general receiver to keep and preserve all property and protect any business or business interest entrusted to the receiver pending any legal or equitable action concerning the same. Mo. Rev. Stat. §515.510 *et seq.*

16. Pursuant to the Act, a request for appointment of a receiver may, as is being done here, be brought as an independent claim and remedy. Mo. Rev. Stat. §515.510(6).

17. Pursuant to the Act, the Court has the power to appoint a receiver in an action in which the person seeking appointment of a receiver has an interest in property or its revenue-producing potential and the appointment of a receiver is necessary to keep and preserve the property or its revenue producing potential or to protect any business or business interest concerning the property or its revenue producing potential. Mo. Rev. Stat. §515.510(2)(a).

18. Here, ARQ and Freeman have direct ownership interest in DFQ, 1501 Washington, and F&B, and a correlating interest in the revenue producing potential of the Last Hotel.

19. As a result, this Court has the authority to appoint a general receiver over DFQ, 1501 Washington, F&B and the Last Hotel.

II. The Facts Support Appointment of a Receiver.

20. DFQ, 1501 Washington, F&B and the Last Hotel cannot operate due to the impasse between Freeman and Qualizza.

A. Qualizza Admits That A Receiver is Necessary.

21. In an action brought by RMZ and others in this Court, which case was assigned Case No. 2122-CC08709, Qualizza, in a sworn affidavit in support of an Emergency Motion for Appointment of a Receiver,¹ stated as follows:

a. "Under the DFQ Operating Agreement, Freeman and I are co-equal managers who must make decisions on behalf of DFQ collectively. Thus, DFQ may only act by virtue of unanimous agreement between Freeman and myself."

b. "My relationship with Freeman has deteriorated such that we are involved in several legal disputes involving our jointly owned companies and we are no longer able to make decisions together."

c. "Freeman and I, the co-managers of DFQ, have reached an impasse with respect to several critical issues involving DFQ. Because the managers of DFQ are deadlocked, DFQ cannot perform its duties as the managing member of Owner."² **Exhibit**

A.

B. TeamQ and Qualizza Are Quitting Management, Refuse Appointment of a Replacement and Promise Harm.

¹ Qualizza and his legal team took no action on that motion after filing it. Their claims were ultimately dismissed.

² The term "Owner" in the affidavit refers to the Last Hotel.

22. In May 2021, Qualizza unilaterally fired the Hotel's manager, HRI Lodging, LLC ("HRI"), and installed his own company, TeamQ, as the manager.

23. As a result, Hyatt declared a default under the franchise agreement because, it argued, it had the right to approve management companies and since TeamQ had no management experience, it did not approve TeamQ.

24. Hyatt thus instituted an arbitration proceeding in June 2021 against the Hotel and Freeman and Qualizza (on their guarantees).

25. More recently, Qualizza provided notice that TeamQ was terminating its management agreement³ and would cease managing the Hotel effective September 26, 2022.

Exhibit B.

26. Thereafter, Freeman, through counsel, proposed two separate management companies to take over management of the Hotel in an effort to avoid a shutdown of the Hotel.

Exhibit C and D.

27. When no response was received, counsel for Freeman reached out again on September 7, 2021. **Exhibit E.**

28. Qualizza, through counsel, rejected the two proposed managers without discussion and via a three-word email: "Neither is acceptable." **Exhibit F.**

29. Also, in a series of emails on August 3, 2022, Qualizza threatened to (a) close the Hotel "because of Corruption in America," and run it "right into the wall," (b) paint the Hotel

³ Freeman was unaware of the existence of the TeamQ management agreement until it was provided with the notice to terminate. Qualizza signed the agreement without authority on behalf of DFQ and on behalf of TeamQ.

building a rainbow color, and (c) hang banners detailing the corruption of Freeman, Hyatt, US Bank, various counsel, a construction company and other jointly owned entities. **Exhibit G.**

30. If a Receiver is not appointed prior to September 26, 2022, the Hotel will have no management and be forced to close, which according to Qualizza is his goal.

C. Qualizza Refuses to Engage or Negotiate a Sale of the Hotel.

31. In late August 2022, Freeman obtained an offer to purchase the Hotel for \$31,000,000.00.

32. Freeman, through counsel, immediately forwarded the offer to Qualizza's counsel in hopes of initiating negotiations with the potential purchaser. **Exhibit C.**

33. Again, on September 7, 2022, Qualizza, through counsel, flatly refused, without comment, to review or discuss the offer or to engage in negotiations. **Exhibit F.**

34. Due to Qualizza's refusal to engage, the Hotel can neither be run nor can it be sold.

35. If the Hotel shuts down prior to sale, the lack of a going concern will cause significant damage to the value of the Hotel.

D. Qualizza's Increasingly Antagonistic and Bizarre Actions Demonstrate He is No Longer Capable of Managing the Hotel in Any Event.

36. Since Qualizza's imagined dispute with Freeman began in early 2021, Qualizza has become more and more unhinged and confrontational, not only with Freeman but anyone associated with the Hotel, typically avoiding actual issues and simply issuing threats and ad hominem attacks.

37. The following is non-exhaustive list of examples of Qualizza's bullying and threats:

- a. In a March 7, 2021, email, Qualizza accused Hyatt executives of criminal misappropriation of funds and threatened to call the FBI. **Exhibit H.**
- b. Qualizza has repeatedly threatened and attacked Freeman, including the following:
 - i. In a rambling email on April 21, 2021, in response to an email from Freeman pleading to "keep this professional," Qualizza accused Freeman of lying, cheating, in need of mental help, and calling Freeman a "butthurt child."
Exhibit I.
 - ii. On April 28, 2021, Qualizza told Freeman to not "expect any proceeds" ever on their joint investments. **Exhibit J.**
 - iii. In response to comments on a May 2021 sales report, Qualizza said about Freeman, "You proof [sic] you can't fix fat, ugly and stupid. I am coming for you." Qualizza then followed up with emails calling Freeman "Barin [sic] dead," stating "How about Fuck you can you spell that" and "You going [sic] to have a number not a name when I am done with you [sic] sloppy fat ass."
Exhibit K.
- c. Qualizza attacked HRI, the former management company for the Hotel, on a number of occasions, including:
 - i. In an April 22, 2021, email exchange Qualizza called the president of HRI "Eddie Haskell-like," and stated that he (Qualizza) was "walking the path of righteous [sic]" and saying that HRI's reputation was "garbage." **Exhibit L.**

- ii. In a series of emails on May 3 and 5, 2021, Qualizza accused HRI of extortion, predicting their "fall will be hard," saying "HRI is going to be a pile of dirt," and telling HRI's COO that "your lawyers are as dumb as you."

Exhibit M.

- d. Not content to let his lawyers litigate his claims, Qualizza, in June 2021, directly contacted one of Hyatt's lawyer's and called him "the worst lawyer in America behind Neils [sic]." He further stated that "Hyatt's days of White Privilege are Over," and that Qualizza would "settle all scores, and wipe you clowns out financially, then turn it over to the Feds." **Exhibit N.**
- e. Similarly, Qualizza contacted Freeman's lawyers directly alleging criminal activity, including conspiracy to commit fraud, securities and mail fraud, **Exhibit O.**
- f. On August 8 and 9, 2022, in response to counsel for the Last Hotel notifying one of Qualizza's lawyers⁴ of a potential attorney-client privilege leak, Qualizza called the lawyer "box of rocks stupid," told him he hoped he would enjoy his retirement behind bars, and to "go cry with your client like a little girl." All of this was after Qualizza's initial response, which was simply, "Merry Christmas, Loser." **Exhibit P.**

III. Appointment of a Receiver is Warranted.

⁴ Qualizza has hired and fired no less than 4 law firms since the Spring of 2021.

38. Appointment of a general receiver over all of the entities that own or control the Hotel is the only method of effectively ending the stalemate between Freeman and Qualizza and ensuring that the Hotel value is not dissipated.

39. Plaintiff offered two separate management companies to Qualizza, Rebound Hospitality Services, LLC, and Crescent Hotels & Resorts, LLC, both of whom were rejected without comment.

40. Plaintiff submits that both Rebound Hospitality Services, LLC, and Crescent Hotels & Resorts, LLC are qualified to act as a receiver over the Hotel in that both companies have extensive experience in running and selling hotel properties similar to the Hotel.

41. The qualification of Rebound Hospitality Services, LLC, are attached as **Exhibit Q**.

42. The qualification of Crescent Hotels & Resorts, LLC, are attached as **Exhibit R**.

WHEREFORE, ARQ and Freeman request that this Court grant enter an Order appointing one of the firms identified above as the general receiver over Defendant DFQ Management LLC, Defendant Last Hotel Master Tenant LLC, Defendant 1501 Washington St. Louis, LLC and Defendant Last Hotel F&B, LLC pursuant to the Act and Missouri law, and grant such further or different legal or equitable relief as this Court deems just.

ARQ-1501 ST. LOUIS, LLC, and NEIL FREEMAN,
Plaintiffs

BY: /s/ Lawrence S. Hall

Lawrence S. Hall, #63852

HEYL, ROYSTER, VOELKER & ALLEN, P.C.

701 Market Street

Peabody Plaza, Suite 1505

St. Louis, MO 63101

Telephone 314.241.2018

PRIMARY E-MAIL: edwmail@heyloyroyster.com

SECONDARY E-MAIL #1: LHall@heyloyroyster.com